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August 22, 1997

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Mr. William Caton
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cc 93-23

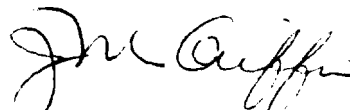
Re: IB Docket No. 96-111, DISCO II
Errata to Comments of BT North America Inc.

Dear Mr. Caton:

On Thursday, August 21, 1997, BT North America Inc. ("BTNA") submitted comments on the Commission's Further Notice of Proposed Rulemaking in the proceeding captioned above. Counsel has subsequently discovered several typographical errors in the filing. For the convenience of the Commission, a corrected version of the filing is attached. We are also serving on behalf of BTNA the corrected version on all parties previously served by BTNA in this proceeding.

Please contact the undersigned counsel if there are any questions.

Sincerely,



Joan M. Griffin
Senior Counsel

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of the Commission's Regulatory)	IB Docket No. 96-111
Policies to Allow Non-U.S.-Licensed Space)	
Stations to Provide Domestic and International)	
Satellite Service in the United States)	
)	
and)	
)	
Amendment of Section 25.131 of the Commission's)	CC Docket No. 93-23
Rules and Regulations to Eliminate the Licensing)	RM-7931
Requirement for Certain International Receive-Only)	
Earth Stations)	
)	
and)	
)	
COMMUNICATIONS SATELLITE CORPORATION)	File No. ISP-92-007
Request for Waiver of Section 25.131(j)(1) of the)	
Commission's Rules As It Applies to Services)	
Provided via the INTELSAT K Satellite)	

COMMENTS OF BT NORTH AMERICA INC.

BT North America Inc. ("BTNA"), by its attorney, hereby submits its Comments on the Commission's Further Notice of Proposed Rulemaking ("*Further NPRM*") in the proceeding captioned above. The Commission in this proceeding is considering the establishment of a framework to allow satellites licensed by other countries to be used to provide service in the United States ("US"). In the *Further NPRM*, the Commission specifically seeks comment on how the commitments made by the US under the World Trade Organization ("WTO") Agreement on Basic Telecommunications Services ("WTO Basic Telecom Agreement") and the General

Agreement on Trade in Services ("GATS") affect the Commission's proposed framework.

BTNA previously filed comments in this proceeding on the issue of whether the US should apply a competitive entry test to traditional INMARSAT services, such as aeronautical services, provided on a "domestic" basis.¹ This issue is of particular interest to BTNA because BTNA is a US subsidiary of British Telecommunications plc ("BT"), which provides global aeronautical and maritime telecommunications services via INMARSAT. In its initial comments, BTNA argued that it is unnecessary and inappropriate to subject traditional INMARSAT "domestic" services to a competitive entry test.² While the Commission has not explained what services are "domestic" INMARSAT services, the only traditional INMARSAT services that might be considered "domestic" would be services to ships in US territorial waters, services to aircraft in US air space, and services to aircraft on the "domestic legs" of international flights. At present, the demand for these services is limited and there are few service suppliers. As such, the Commission's goal of promoting competition in the satellite market would be better served by encouraging INMARSAT operations in these

¹ See Comments of BT North America Inc. in IB-Docket No. 96-111, filed July 15, 1996.

² As BTNA discussed in its initial comments in this proceeding, there is no rational basis for distinguishing between "domestic" and "international" traditional INMARSAT services, nor is it feasible to effect such a policy. If a passenger on an aircraft of Dutch registry originates a call to France while the plane is in US airspace, and the call is routed to its destination through an INMARSAT satellite and BT's earth station at Goonhilly, England, there is no simple and logical basis on which to classify the call.

narrow markets rather than by restricting entry through application of a competitive entry test.

The WTO Agreement provides yet another reason why the Commission should refrain from applying a competitive entry test to traditional INMARSAT services. The US may have no market access obligations to intergovernmental satellite organizations ("IGOs"), as the Commission notes in the *Further NPRM*.³ However, the US does have obligations under the WTO Basic Telecom Agreement and the GATS to the WTO Member countries that use the facilities of IGOs to provide their services. As the Commission acknowledges, the US was one of the countries that made commitments under the WTO Basic Telecom Agreement to open its market for satellite services, including mobile satellite services.⁴ Nothing in the US Schedule of Specific Commitments suggests that this commitment to market access is limited by the particular satellite facilities that the WTO Member country employs to provide its services.⁵ Under these circumstances, the US cannot deny carriers from WTO Member countries the right to provide traditional INMARSAT services on a "domestic" basis without violating its market access obligations under the WTO Basic Telecom Agreement.

³ See *Further NPRM* at ¶32.

⁴ *Id.* at ¶16.

⁵ The US Schedule of Specific Commitments lists Comsat's exclusive rights to links with INTELSAT and INMARSAT as a market access limitation. As the Commission notes in the *Further NPRM*, this limitation simply reflects Comsat's rights under the Communications Satellite Act of 1962 and the International Maritime Satellite Telecommunications Act of 1978 to provide INTELSAT and INMARSAT international space segment capacity to users in the U.S. *Id.* at ¶10, n. 15.

Of particular interest to BTNA is the ability to use INMARSAT for the provision of aeronautical communications. As the Commission observes in the *Further NPRM*, the Commission is considering the related issue of whether users should be allowed to access INMARSAT for aeronautical communications during the domestic legs of international flights in *INMARSAT Aeronautical Services*.⁶ As BTNA explained in its comments in *INMARSAT Aeronautical Services*, the Commission's rationale for proposing geographic restrictions on the use of INMARSAT for aeronautical services — *i.e.*, to ensure adequate spectrum for the operations of American Mobile Satellite Corporation ("AMSC") — is no longer relevant, since the parties sharing L-Band frequencies in the mobile satellite service have entered into a spectrum coordination agreement that concerns, *inter alia*, usage in the continental US.⁷ In light of these facts, the Commission cannot authorize AMSC to provide "domestic" aeronautical services and deny the same right to BT consistent with its obligations under GATS Article XVII to accord the services and service suppliers of any other WTO Member country treatment that is "no less favorable" than that which it accords to services and service suppliers from the US.

⁶ *In the Matters of Provision of Aeronautical Services via the INMARSAT System and Aeronautical Radio, Inc. and the Air Transport Association of America Request for Waiver*, 11 FCC Rcd 5330 (1996) ("*INMARSAT Aeronautical Services*").

⁷ See Comments of BTNA in *INMARSAT Aeronautical Services* at 3-5 (filed Sept. 3, 1996).

For these reasons, the Commission should refrain from applying a competitive entry test to any traditional INMARSAT service.

Respectfully submitted,

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Its Attorney

August 21, 1997

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Comments of BT North America, Inc., were served this 21st day of August, 1997, via U.S. Mail, postage prepaid, upon all persons on the attached service list.

A handwritten signature in cursive script, appearing to read "Patricia J. Goodson", is written over a horizontal line.

Patricia J. Goodson

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